



2. Plaintiff's Original Petition and Citation were served upon Everest on April 13, 2016 via its Registered Agent, which was later received by Everest on April 18, 2016.<sup>4</sup> Everest thus timely files this Notice of Removal within the 30-day time period prescribed by 28 U.S.C. § 1446(b). Everest has not yet filed an answer or any other pleadings or pre-answer motions.

### **B. BASIS FOR REMOVAL**

3. Removal is proper because there is complete diversity between the parties. 28 U.S.C. § 1332(a). Plaintiff is, and alleges that it was at the time the State Court Action was filed, a citizen of Texas where it is incorporated and has its principal place of business.<sup>5</sup> Everest is, and was at the time the State Court Action was filed, a citizen of Delaware, where it was incorporated, and New Jersey, where it has its principal place of business.<sup>6</sup> Moreover, as noted above, Plaintiff seeks monetary relief over \$100,000 in the State Court Action. Therefore, the amount in controversy exceeds \$75,000, excluding interest and costs. 28 U.S.C. § 1332(a).

4. Venue is proper in this district under 28 U.S.C. §1441(a) because the state court where the suit has been pending is located in this district.

5. Pursuant to 28 U.S.C. §1441(d), Everest will promptly file a copy of this notice of removal with the clerk of the state court where the suit has been pending, and written notice of the filing will be given to Plaintiff, the adverse party.

6. A jury demand was not made in the State Court Action.

7. As required by 28 U.S.C. § 1446(a) and LR 81, attached to this notice are: all executed process in the case; pleadings asserting causes of action, e.g., petitions, counterclaims, cross actions, third-party actions, interventions and all answers to such pleadings; all orders signed

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<sup>4</sup> The executed process has not been filed in the State Court Action.

<sup>5</sup> See Exhibit 1.1(A) at ¶1.

<sup>6</sup> See *id.* at ¶2.

by the state judge; the docket sheet; an index of matters being filed; and a list of all counsel of record, including addresses, telephone numbers and parties represented.

**C. CONCLUSION**

WHEREFORE, PREMISES CONSIDERED, Defendant Everest National Insurance Company asks the Court to remove the suit to the Southern District of Texas and for such other and further relief to which it may be entitled in law or in equity.

Respectfully submitted,

**WALKER WILCOX MATOUSEK LLP**

By: /s/ Stephen O. Venable

Stephen O. Venable

State Bar of Texas I.D. #24056471

Southern District of Texas I.D. #777416

Daniel Ray

State Bar of Texas I.D. # 24098306

Southern District of Texas I.D. # 2783670

1001 McKinney Street, Suite 2000

Houston, Texas 77002

Telephone: (713) 654-8001

Telecopy: (713) 343-6571

Email: [svenable@wwmlawyers.com](mailto:svenable@wwmlawyers.com)

Email: [dray@wwmlawyers.com](mailto:dray@wwmlawyers.com)

**ATTORNEYS FOR EVEREST NATIONAL  
INSURANCE COMPANY**

**CERTIFICATE OF SERVICE**

I hereby certify that I have caused a true and correct copy of the foregoing instrument to be served upon the following counsel of record herein via the Court's CM/ECF system and e-mail on this 13<sup>th</sup> day of May, 2016.

Jason C. Norwood  
RENSHAW NORWOOD, PLLC  
2900 Wesleyan, Suite 230  
Houston, Texas 77027  
Email: [jason@renshaw-norwood.com](mailto:jason@renshaw-norwood.com)

/s/ Stephen O. Venable  
Stephen O. Venable